

**IN THE DRAWINGS:**

Replacement drawing sheets 1 to 10 comprising Figures 1 to 7 in compliance with 37 CFR 1.121(d) are attached. The drawing sheets 1/10 to 10/10 were simply renumbered as 1/12 to 10/12. No changes to the contents of Figures 1 to 7 were made. New Figures 8 and 9 are added on new drawing sheets 11 and 12. The complete set of drawings now comprises drawing sheets 1/12 to 12/12 and bears Figures 1 to 9.

The following is attached:

Replacement Drawing Sheets 1/12 to 10/12 bearing Figures 1 to 7; and

New Drawing Sheets 11/12 to 12/12 bearing Figures 8 to 9.

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**-REMARKS / ARGUMENTS-****Summary of the Examiner's office action**

The drawings are objected to under 37 CFR 1.83(a) because they must show every feature of the invention specified in the claims. The step of the claimed use must be shown and can be readily shown by a flow chart.

The claim rejections indicated in the Examiner's action are as follows:

Claims	§101	§112(2)	§102(b)	§102(e)	§103(a)	Status/References
55-79	X					Non-statutory subject matter. Abstract Ideas
55-79		X				Indefinite. Method or apparatus
55-63 and 66-79			X			Anticipated by Beltran (US 6,065,752)
64, 65			X			Anticipated by Porto (US 6,520,503)
55-67, 69 and 74-79				X		Anticipated by Allen (US 2001/0015529)
68 and 70-73					X	Unpatentable over Allen in view of Baker (US 4,222,572)

**Amendments**

In the Drawings, the drawing sheets 1/10 to 10/10 were simply renumbered as 1/12 to 10/12. No changes to the contents of Figures 1 to 7 were made. New Figures 8 and 9 are added on new drawing sheets 11/12 and 12/12. The complete set of drawings now comprises drawing sheets 1/12 to 12/12 and bears Figures 1 to 9.

In the specification, brief descriptions of the newly added Figures were added and a paragraph was added to describe each Figure. Typographical errors were corrected.

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In the claims, the preamble was amended to be a "method of use" instead of a "use". In claim 55, a definition of the layout was added, the number n was defined as being at least one and the areas chosen in each bet using the layout were defined to corresponding to a card available from the deck and available to be selected as a payout-determining card, the steps of placing and selecting were interchanged and grammatical changes were made. In claim 64, a definition of the layout was added and grammatical changes were made.

Objection to the drawings under 37 CFR 1.83(a)

The contents of new Figures 8 and 9 are closely copied on claims 55 and 64 as originally filed. Therefore the new Figures do not introduce any new matter. The step of use is now shown in the drawings.

Consistent paragraphs were added in the specification in the "Brief Description of the Drawings" section and in the "Detailed Description of the Preferred Embodiment" section to explain the newly added Figures. These paragraphs are also closely copied on claims 55 and 64 as originally filed. Therefore the new paragraphs do not introduce any new matter.

This is believed to overcome the objection to the drawings under 37 CFR 1.83(a).

Rejection of Claims 55-79 under 35 USC §101

As stated in the MPEP at section 2106, a process that consists solely of the manipulation of an abstract idea is not concrete or tangible. Office personnel have the burden to establish a prima facie case that the claimed invention as a whole is directed to solely an abstract idea or to manipulation of abstract ideas or does not produce a

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useful result. Only when the claim is devoid of any limitation to a practical application in the technological arts should it be rejected under 35 U.S.C. 101. Further, when such a rejection is made, Office personnel must expressly state how the language of the claims has been interpreted to support the rejection.

In the present case, the Examiner has failed to establish a prima facie case that the claimed invention as a whole is directed to solely an abstract idea or to manipulation of abstract ideas or does not produce a useful result. The Examiner has also failed to show how the claim is devoid of any limitation to a practical application in the technological arts. Furthermore the Examiner has failed to expressly state how the language of the claims has been interpreted to support the rejection.

Applicants wish to point out that the claims of the present invention are not devoid of any limitation to a practical application in the technological arts. The invention is useful in that it allows use of a standard deck of cards and a specially designed layout to play a new game, the conditions of the new game and the design of the layout being detailed in the claims. In the other independent claim, the invention is useful in that it allows use of a standard roulette gaming device, currently available, to play a new game, the conditions of the new game being detailed in the claims. The playing of the games is a very practical and useful outcome of the invention, which is enabled by the claims.

As further stated in the MPEP at section 2106 : Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." "Functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. "Nonfunctional descriptive material" includes but is not limited to music, literary works and a compilation or mere arrangement of data. Both types of "descriptive material" are nonstatutory when claimed as descriptive material per se. When functional descriptive

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material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. When nonfunctional descriptive material is recorded on some computer-readable medium, it is not statutory since no requisite functionality is present to satisfy the practical application requirement.

The present invention is not concerned with a data structure, a computer program, music, literary works or a compilation or mere arrangement of data per se. Some elements of the claim may be partly or wholly embodied in a computer. However, this does not make the whole claimed invention "descriptive material" as defined in the MPEP. Moreover, since a relationship between the components is clearly detailed, the use of the technology permits the function of the game to be realized.

Finally, as clearly established in the MPEP at section 2106, if the "acts" of a claimed process manipulate only numbers, abstract concepts or ideas, or signals representing any of the foregoing, the acts are not being applied to appropriate subject matter. Thus, a process consisting solely of mathematical operations, i.e., converting one set of numbers into another set of numbers, does not manipulate appropriate subject matter and thus cannot constitute a statutory process. In practical terms, claims define nonstatutory processes if they: consist solely of mathematical operations without some claimed practical application (i.e., executing a "mathematical algorithm"); or simply manipulate abstract ideas, without some claimed practical application.

The practical application of the claimed methods is clearly stated in the claims. The claims do not solely consist of mathematical operations and do not manipulate abstract ideas without a claimed practical application. The claims clearly have a practical application and the steps of the methods are clearly not manipulating abstract ideas or carrying out mathematical operations.

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Withdrawal of the rejection of Claims 55-79 under 35 USC §101 is respectfully requested.

Rejection of Claims 55-79 under 35 USC §112(2)

Throughout the claims, the expression "use" was replaced by "method of use". This is believed to overcome the Examiner's rejection under 35 U.S.C. 112(2), since the subject-matter is now clearly that of a method.

Rejection of Claims 55-63 and 66-79 under 35 USC §102(b) using Beltran (US 6,065,752)

For anticipation under 35 U.S.C. § 102, the reference "must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present." (MPEP §706.02). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Claim 55 is clearly a method claim and not an apparatus claim, contrary to Examiner's belief. The functional limitations of claim 55 are clearly appropriate and should be considered when determining whether Beltran anticipates claim 55.

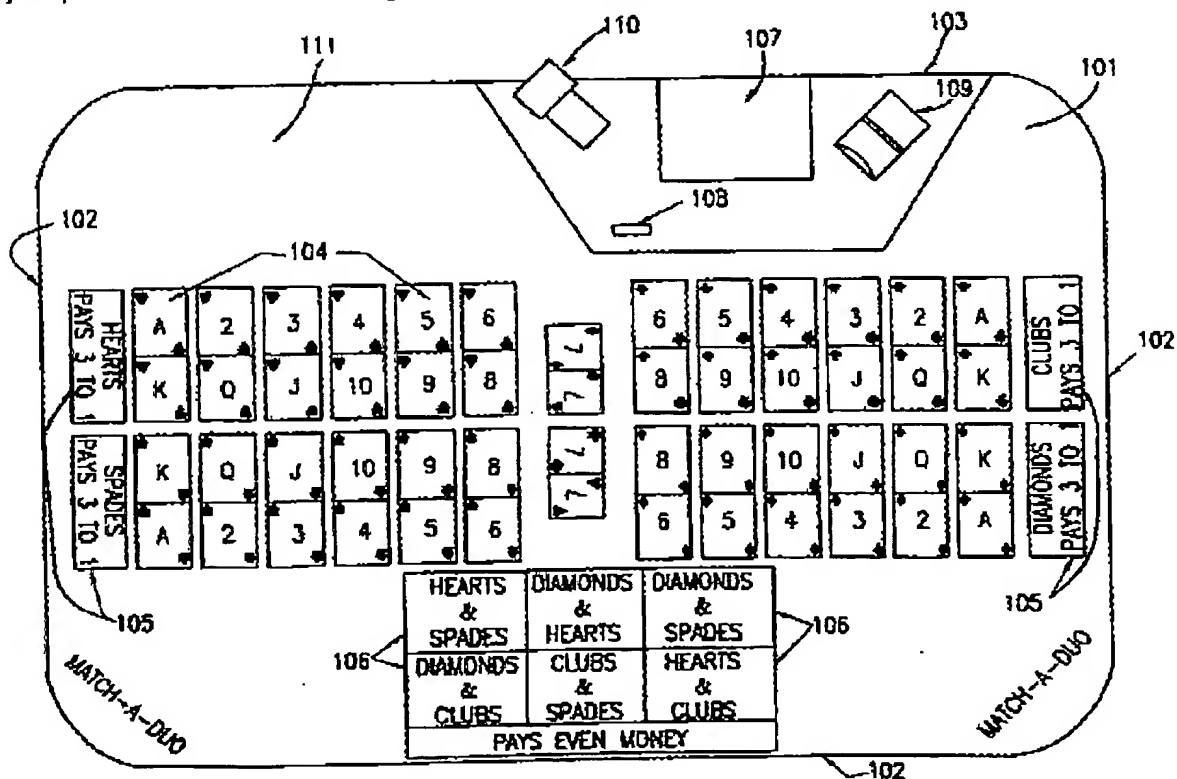
Claim 55 is for a method of use of a standard deck of playing cards and a betting layout for a casino game simulating roulette allowing for a bet to be placed in association with a variable number of symbols with inversely proportional payouts, the layout displaying at least an individual area for each of the cards of the standard deck. The method of use comprises a player placing at least one gaming bet using the layout, each the

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gaming bet choosing a number  $n$  of cards displayed on the layout, the number  $n$  being at least one, each area chosen corresponding to a card available from the deck and available to be selected as a payout-determining card; randomly selecting the payout-determining playing card from the standard deck of playing cards, the payout determining card being any one card from the deck; and when the random selection matches one of the  $n$  betting cards, calculating a payout using the payout determining card for the player for each gaming bet, the payout amounting to  $48/n$ . Claims 56 to 63 and 66 to 79 depend on claim 55.

The drawing below depicts the plan view of the gaming table of Beltran. Gaming table 101, Sides of table for players 102, Dealer side of table 103, Card combinations for betting 104, Betting positions 105, 106, Area for dealing cards 107, Slot for losing jackpot bets 108 and Dealing shoe 109 are shown.



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Beltran is for a playing method for a wagering card game with progressive jackpot which uses a gaming table printed with two-card combinations. Players bet which of the duos (also called "card combinations") will be first to be matched by the cards drawn by the dealer. Players sit around 3 sides (102) of a gaming table (101) printed with 26 2-card combinations (104) and areas (105, 106) for various wagering combinations. The players bet which of the card combinations will be matched by successive cards dealt by the dealer from the dealing shoe (109). The dealer position (103) has an area for the dealt cards (107) and a slot (108) for losing bets.

In Beltran, the layout does not have at least one individual area for each of the cards of the standard deck. Indeed, Beltran has duo areas or combination areas which are areas upon which the player can place a bet on two cards forming a duo. Each card is not available separately for a bet, therefore, the area on the layout cannot be considered to be an individual area for each card. It is the group of two card representations which forms a duo area in Beltran. This is clearly different from applicant's invention where each card has its own area on the layout.

Beltran does not have a choice by the player of a number  $n$  of the betting cards for each gaming bet, the number  $n$  being at least one. Beltran identifies a duo of cards on which to place a bet. In Beltran, players choose duos of cards and do not identify each specific card on which they place a bet, they must respect the duos pre-identified on the layout and bet on the whole duo and not on individual cards. The gaming bet of Beltran does not include a choice by the player of a number  $n$  of the betting cards for each gaming bet,  $n$  being at least one. The player must choose a duo of cards, each duo having two chosen cards. The number  $n$  of betting cards in each bet by the player is therefore a factor of 2, with  $n$  being a minimum of 2. The purpose of Beltran's game is to match a duo, a duo being necessarily made of two cards. Therefore, Beltran teaches a different bet by the player from Applicants' invention.

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Beltran does not draw at random from the deck of playing cards a payout-determining card, wherein the payout determining card is any one card of the deck of playing cards. Beltran selects TWO cards from the deck of playing cards and creates a duo. Each card separately cannot be used in Beltran's game and does not constitute a payout determining card since it does not determine a payout. Only the combination of two cards creates a payout determining duo in Beltran.

In Beltran, two cards are required to be first matched as a pre-identified duo and then compared to the player's bet. If the first two dealt card do not form a pre-identified duo, a further card is drawn, repeatedly, until a duo is formed with one of the previously drawn cards. When a duo is finally drawn, the player's bet is then compared to the drawn duo and a payout can be calculated. Therefore, the random component of Beltran has not completed its purpose until a combination of two cards corresponding to one of the pre-identified duos is drawn, thereby making it a "random DUO selection" which obtains a payout-determining DUO of cards and not a random card selection which obtains a single payout-determining card.

In Applicants' invention, each payout-determining card drawn is compared to each betting card chosen by the player. It is possible to have a one-to-one match between the payout-determining card and the betting card. This is clearly impossible in Beltran since it goes against the purpose of the game which is to match a duo, a duo being necessarily made of two cards. Consequently, Beltran clearly does not have a random card selection but rather has a random duo selection.

Applicants' invention compares the payout-determining card from the random card selection and the n betting cards for the player. Beltran does not compare a payout-determining CARD to the n betting cards chosen. Beltran compares duos of cards to identified duos bet upon by the player.

Applicants respectfully submit that Beltran does not anticipate Claim 55 because it does not teach every aspect of the claimed invention either explicitly or impliedly. Withdrawal of the rejection to Claim 55 is respectfully requested. Claims 56-63 and 66-79 are dependent on claim 55 and thus are also novel and non-obvious.

Rejection of Claims 64, 65 under 35 USC §102(b) using Porto (US 6,520,503)

For anticipation under 35 U.S.C. § 102, the reference "must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present." (MPEP §706.02). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Claim 64 is clearly a method claim and not an apparatus claim, contrary to Examiner's belief. The functional limitations of claim 64 are clearly appropriate and should be considered when determining whether Porto anticipates claim 64.

Claim 64 is for a method of use of a roulette gaming device having at least roulette numbers 1 to 36 and 0, two types of markers and a betting layout for a roulette casino game allowing for a bet to be placed on a variable number of symbols with inversely proportional payouts and for bets to be held, the betting layout having at least one individual area for each of the roulette numbers. The method of use comprises a player placing at least one standard bet using a first type of the markers and the layout, each the standard bet choosing a series n of betting numbers displayed on the layout of roulette numbers and a securing bet using a second type of the markers and the layout, the securing bet choosing a series s of the betting numbers as bet securing numbers, wherein the bet securing numbers allow the player to modify a casino house income ratio; randomly selecting a payout-determining number from the set of roulette

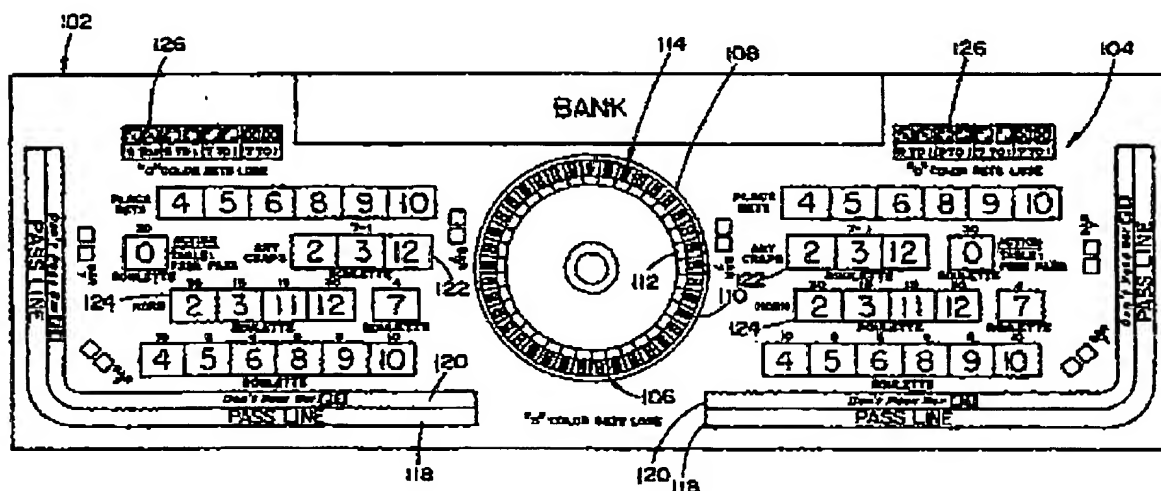
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numbers, wherein the payout determining number is any one of the roulette numbers; when the payout-determining number matches one of the  $n$  betting numbers chosen, a payout is calculated using the payout determining number, for the player, for each standard bet, the payout amounting to  $36/n$ . Claim 65 depends on claim 64.

Porto is for a combination craps and roulette game for a casino which has one wheel shared by both. The game includes a playing surface (102) having indicia (104) for displaying bets and a wheel (106) with many slots corresponding to a face of at least one die. The wheel can retain and direct a rolled ball such that comes to rest in one of the slots. The wheel is independent of the game surface. The mini roulette game that is provided makes use of the wheel. The combination game minimizes the required amount of casino floor space needed.

The drawing below depicts the layout of the game surface and wheel of the combination craps and roulette game of Porto, including the game surface 102, the indicia 104 and wheel 106.



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Porto clearly does not have a roulette gaming device having at least roulette numbers 1 to 36 and 0 and its betting layout clearly does not have at least one individual area for each of the roulette numbers. The display of Porto does not display roulette numbers 1 to 36 and 0 as betting numbers. It shows numbers going to a maximum of 12 and dice combinations, a total of which never exceeding 12. Clearly, Porto's display is different from Applicants' invention since it does not have roulette numbers 13 to 36 and repeats some of the numbers between 0 and 12.

In Applicants' invention, the player chooses a series *s* of the betting numbers as bet securing numbers, wherein the bet securing numbers allow the player to modify a casino house income ratio. As detailed in the specification as filed, when the «bet securing» number identified by a bet made by a player matches the drawn payout-determining number, all bets made by the player identifying a series *n* of betting numbers, except the bet identifying a «bet securing» number made by the same player on the game, are returned to the player giving the player the opportunity to take advantage of a lower casino house income ratio for his or her bet amounts identifying a series *n* of betting numbers. The player chooses how many and which numbers to identify as bet securing numbers using the

Porto does not provide for bet securing numbers to be separately identified from betting numbers in any way. Such a limitation is not taught or suggested by Porto. The Examiner has identified the Any Craps bet 122 to be a bet securing number. This is believed to be erroneous by Applicants. Indeed, the Any Craps bet 122 is used with the typical craps portion of the game, with the prior art rules. In the roulette portion of the game, it is clearly indicated at page 3, paragraph 0041 that the "Any Craps" bet is also a roulette bet (one bet will cover the three numbers 2, 3 and 12 and will receive odds of 7 to 1). Clearly, this is completely different from Applicants' bet securing numbers where the securing numbers allow the player to modify a casino house income ratio. In Porto's

apparatus, the "Any Craps" bet does not modify the casino house income ratio since it is always available to be chosen as one bet for the gaming bet by the player.

The set of roulette numbers is Porto is clearly not that of Applicants' invention, as detailed above, therefore, the random selection from the set of roulette numbers to obtain a payout-determining number is necessarily different. Indeed, the set of roulette numbers from which the payout-determining number is obtained is the same as that of the display, namely roulette numbers 1 to 36 and 0 which Porto does not teach.

Porto does not teach that the payout be calculated to be  $36/n$ . Porto does not have a payout table where the payout is calculated as 36 divided by the series  $n$  of betting numbers identified.

There is no claim 54 in the present application and Applicants therefore simply ignore the Examiner's comment on claim 54.

Applicants respectfully submit that Porto does not anticipate Claim 64 because it does not teach every aspect of the claimed invention either explicitly or impliedly. Withdrawal of the rejection to Claim 64 is respectively requested. Claim 65 is dependent on claim 64 and thus is also novel and non-obvious.

Rejection of Claims 55-67, 69 and 74-79 under 35 USC §102(e) using Allen (US 2001/0015529)

For anticipation under 35 U.S.C. § 102, the reference "must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present." (MPEP §706.02). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a

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dealt to the player and a game of Poker is played. A bonus wager area is provided to make a bonus wager on a Joker's Wild or Kings Bonus. If the Joker's Wild is chosen in the bet, a Joker in one's hand replaces any card necessary to make a winning Poker combination. If the Kings Bonus is chosen in the bet, the player bets that he will receive at least one King in his hand of five cards. The dealer deals the cards and gives a five card hand to each player. He resolves any bonus wagers by the players and pays the announced payouts for the bonus bets.

Additionally, the player chooses a card to place an auxiliary bet on. After the result of the bonus bets is determined, a card is randomly chosen from the hands of the principal game for the auxiliary game. If the card chosen is a King, the King is simply ignored and a further card is chosen. Some randomly chosen cards can therefore not give access to a payout. The auxiliary bets are not returned to the players, it therefore cannot be considered a "free turn", the bets are frozen until another card is simply chosen. The auxiliary bets are then resolved and paid out. All regular wagers are then resolved and paid out.

In Allen, some cards of the deck are always excluded from being displayed on the layout. In the embodiment of Figure 1, Kings of all suits are excluded from the layout. As stated at page 2, paragraph 0023, "while the layout 10 does not include any areas for Kings, which according to the preferred embodiment are excluded from single card wagers (or multiple card wagers as hereinafter describer [sic]) it should be understood that the method could be embodied by excluding Queens, Jacks, or any other selected card from the wagering layout 10." Since these cards are excluded from the layout, they cannot be bet upon as single card wagers by the player.

Applicants' invention uses a betting layout displaying at least an individual area for each of the cards of the standard deck. All cards from the deck can be bet upon since they are all displayed on the layout, available to be chosen by the player.

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The layout of Allen is clearly different from that of Applicants' making the step of using the layout to place the bet by the player clearly different. In Applicant's invention, all cards of the deck are represented on the layout and therefore are available to be bet upon and to be selected as the payout-determining card.

This fundamental difference between Applicants' invention and Allen's has repercussions throughout the steps of the claimed method since all steps cannot be carried out in the same way if the tools used and are provided for are different.

Applicants respectfully submit that Allen does not anticipate Claim 55 because it does not teach every aspect of the claimed invention either explicitly or impliedly. Withdrawal of the rejection to Claim 55 is respectfully requested. Claims 56-63 and 66-79 are dependent on claim 55 and thus are also novel and non-obvious.

Rejection of Claims 68 and 70-73 under 35 USC §103(a) using Allen in view of Baker (US 4,222,572)

As stated in MPEP section 2142, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

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Figure 1 is the most representative of the layout of the game of Baker. The game board 10, card areas 36, chip storage area 15, three areas 12, 14 and 16 for black, red and gold cards, card selection area 18, area or space 22, designated "high-low", surface area 24 designated "2 pair", hand card selection 26, full house selection area 28, proposition bet area 32, "all" selection area 34 and area 38 for selecting that at least one gold card will be exposed in the hand are shown.

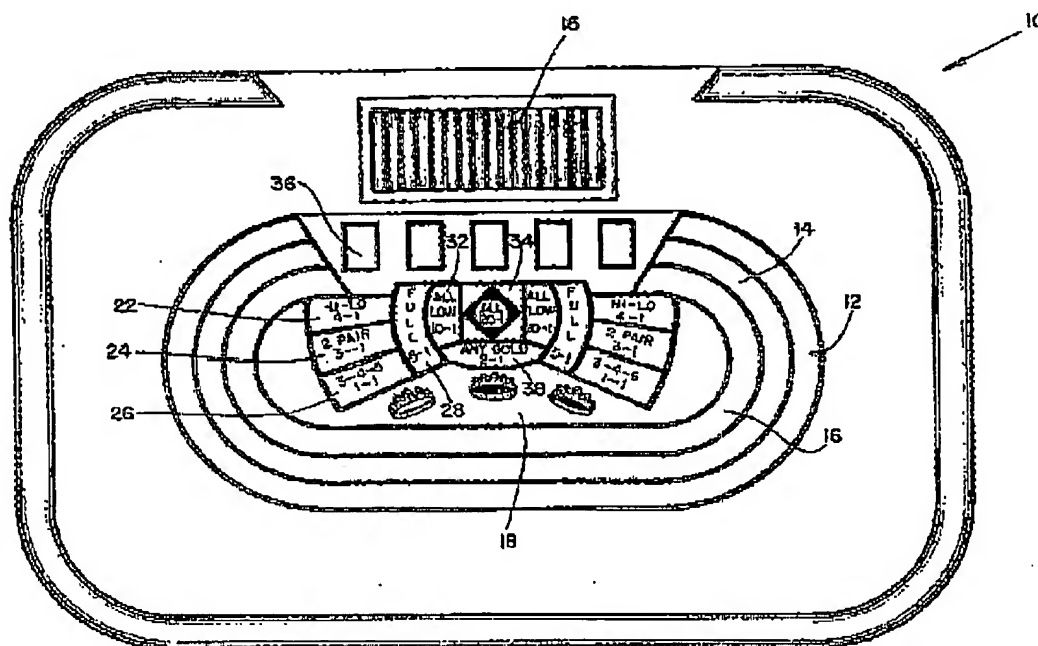


FIG. 1

Baker teaches a card deck and game board which has high and low cards in four colours and a special board for selecting or guessing different cards. The card deck comprises high and low red and black cards. High cards have an indicia thereon and low cards lack such indicia, and there are high cards of a third colour, pref. gold or silver. In a preferred deck, there are 16 low red cards, 16 low black cards, 8 high red cards, 8 high black cards, and 4 high gold cards. The game system includes a game

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board playing surface for selecting or guessing different cards or hands to be dealt by a dealer.

A field bet or card selection area 18 is designated on the playing surface and contains three high card designations, one of black, one of red, and one of gold, as shown. This field area is also an area where a player may place chips to select the next card guessed that the dealer will turn up. If the next card the dealer turns up is a high card, the player wins a field bet, any black or red high card paying off 1:1, or a gold high card paying 3:1. Area 38 is for selecting that at least one gold card will be exposed in the hand. If desired, when such a gold card appears, the player may elect to let the bet play again, and if another gold card is exposed, the pay-off is substantially increased. However, the player will then lose if another gold card does not appear.

As explained above, the layout in Allen is clearly different from that of Applicants' thereby making all steps which use the layout directly or indirectly different from the steps of Allen. Furthermore Allen fails to teach the free turn card and the outside cards of Applicant's invention. In order to establish a case of obviousness, those limitations lacking from Allen must first be found in Baker.

As to claim 55, as will be clearly seen from Baker's figure 1, the layout in Baker is also completely different from that of Applicants' invention. The layout of Applicants' invention displays at least an individual area for each of the cards of the standard deck. The other steps use that layout. Therefore, the limitations of the layout lacking from Allen are also not found in Baker. All claims are therefore non-obvious in view of the two references.

Claim 68 depends on claim 55. It is therefore clearly not anticipated or obvious from the above discussion. However, for completeness, the following arguments will be made. As explained above, in Baker, when a gold card appears, the player may elect to let the

bet play again, and if another gold card is exposed, the pay-off is substantially increased. However, the player will then lose if another gold card does not appear. In Applicant's invention, the free turn card is a real free turn card in that when the card identified as a «free turn» card is randomly drawn from a deck of playing cards as the payout-determining card, all bets (even those not placed on that specific card) are returned to players. The players may then choose to bet again on the same card or on any other card for the next turn. The gold card of Baker is therefore different from Applicant's free turn card. Therefore, the limitation of the free turn card lacking from Allen is not found in Baker. Claim 68 is therefore not obvious in view of the two references.

Claims 70-73 depend on claim 55. They are therefore clearly not anticipated or obvious from the above discussion. However, for completeness, the following arguments will be made. Baker does not teach choosing all of the cards in a same suit and identifying an outside card from each of the four suits. Baker does not teach choosing all of the cards of a same parity and identifying four cards of odd parity as outside cards. Baker does not teach choosing all of the cards lower or higher than face value 7 and identifying four cards of a same face value as outside cards. Furthermore, Baker does not teach choosing the outside cards to have a face value of 7 and two jokers in a deck of fifty-four playing cards. Therefore, the limitations of claims 70-73 lacking from Allen are not found in Baker. Claims 70-73 are therefore not obvious in view of the two references.

From the above discussion, it is clear that Allen, even when combined with Baker, does not render claims 55 to 79 obvious.

In view of the foregoing, reconsideration of the rejections and objections of claims 55 to 79 is respectfully requested. It is believed that claims 55 to 79 are allowable over the prior art, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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Encl. Replacement drawings sheets 1/12 to 10/12

New drawing sheets 11/12 and 12/12

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